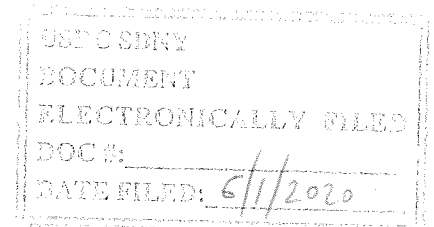


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
UNITED STATES OF AMERICA :

v. :

GORDON RIDDICK, :

Defendant. :

ORDER17 CR 505-17 (VB)
-----X

In an undated letter docketed on May 22, 2020, defendant Gordon Riddick informs the Court why he believes a reduction of his sentence is warranted and requests the Court appoint him counsel “to handle my motion for compassionate release.” (Doc. #399). The Court construes defendants’ submission as a motion for a reduction of sentence pursuant to 18 U.S.C. § 3582(c)(1)(A)(i) and a request for counsel.

Section 3582(c)(1)(A)(i) authorizes the Court to reduce a term of imprisonment previously imposed for “extraordinary and compelling reasons.” However, the statute contains an explicit exhaustion requirement that must be complied with prior to the filing of such a motion: “[T]he court, upon motion of the Director of the Bureau of Prisons, or upon motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant’s behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant’s facility, whichever is earlier, may reduce the term of imprisonment . . . if it finds that . . . extraordinary and compelling reasons warrant such a reduction.”

Defendant does not claim to have exhausted his administrative rights. The Court does not have the power to waive the exhaustion requirement. See, e.g., United States v. Ogarro, 2020 WL 1876300, at *3-5 (S.D.N.Y. Apr. 14, 2020); United States v. Roberts, 2020 WL 1700032, at *2 (S.D.N.Y. Apr. 8, 2020).

Moreover, “[t]here is no constitutional right to counsel for a motion for a reduction of sentence pursuant to § 3582(c).” United States v. La Rosa, 2016 WL 5921827, *2 (S.D.N.Y. Oct. 11, 2016) (citing United States v. Reddick, 53 F.3d 462, 464–65 (2d Cir. 1995) (holding there is no statutory right to counsel for a motion for reduction of sentence under the Criminal Justice Act). To the contrary, whether to appoint counsel is subject to the Court’s discretion. (Id.). Here, because defendant’s submission does not even mention exhaustion, there is no basis to conclude that counsel would be of assistance to defendant at this time.

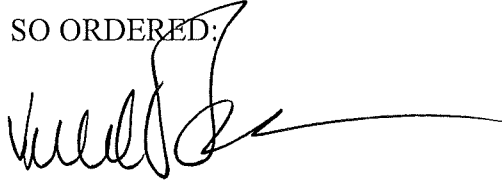
Accordingly, defendant’s motion for a reduction of sentence and request for counsel are DENIED WITHOUT PREJUDICE to refiling after defendant demonstrates that the exhaustion requirement has been satisfied.

Chambers will mail a copy of this Order to defendant at the following address:

Gordon Riddick, Reg. No. 79446-054
FCI Schuylkill
P.O. Box 759
Minersville, PA 17954-0759

Dated: June 1, 2020
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent L. Briccetti', with a long horizontal flourish extending to the right.

Vincent L. Briccetti, U.S.D.J.